IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

Crl.Rev.Pet.No. 1136 of 2000()

CRA.239/1997 of ASSISTANT SESSIONS COURT, ALAPPUZHA

.....

REVN. PETITIONER:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

RESPONDENTS:

NANU CHANDRAN, VADAKKEVATTATHU VEEDU,
ASRAMAM WARD, ALAPPUZHA.

BY ADV.SRI.S.SANAL KUMAR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 24/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Crl.R.P.No.1136 of 2000-C

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Dated this the 24th day of October, 2007

O R D E R

The State has filed the revision petition challenging the decision of the Sessions Judge imposing a sentence to pay fine of Rs.1500/- and in default to undergo simple imprisonment for one month for the offence under Section 324 I.P.C.

2. The trial court/Principal Asst. Sessions Judge had convicted the accused for the offences under Sections 447 and 307 I.P.C and sentenced to undergo rigorous imprisonment for three years for the offence under Section 307 I.P.C. No separate sentence was awarded for the offence under Section 447 I.P.C. The Sessions Judge in appeal converted the conviction to one under Section 324 I.P.C observing that the injuries sustained by PWs.1 and 2, i.e. a girl aged 16 years and her mother are simple and also not on the vital parts of the body. The injuries sustained and considered by the court below as can be found from the judgment are as follows:-

"PW.9 is the doctor who treated PW.1 and issued Ext.P3 wound certificate. The doctor has noted a cut injury of about 8 c.m long muscle deep horizontally about 5 c.m left of mid-line and about 4 c.m below left inferior angle of scapula. Medial edge is sharp lateral edge shown a tailing of 2 c.m long downwards skin deep injuries. During cross-examination PW.9 stated that it is improbable to cause such injury by a fall. PW.10 is the doctor who treated PW.2 on 25/09/1989 at 9.20 a.m and issued Ext.P4 certificate. According to the doctor the injury is simple and no injury is on vital part of the body. PW.10 is the doctor who treated PW.2 and issued Ext.P6 certificate. He has noted a lacerated wound 20 c.m x 5 c.m on the back of neck extending to the right supra scapular region. Injury spinous process of C4, vertibra cutting the paraspinol muscle and suprascapuls muscle of right side cord not injured. According to PW.1 these injuries could be caused by cutting with MO.1 chopper. During cross-examination PW.10 stated that the injury noted in Ext.P5 could be caused with MO.1 weapon. As per the doctor the injury was not fatal. But it is a dangerous wound and there was a fracture of spinal vertebrae. The learned counsel for the appellant argued that originally the case was charge-sheeted for offences punishable under Sections 447 and 324 I.PC. After taking evidence the lower

> court found that the appellant has committed an offence under Section 307 I.P.C and committed the case before the Sessions ... From the evidence of PWs.1 to 5 it can be seen that the accused inflicted injuries on PWs.1 and 2 with MO.1 chopper and injuries were inflicted intentionally."

Further it is submitted that PW.1 was an inpatient for nine days and PW.2 for 19 days at the hospital. Under no circumstances the above injuries can be said to be simple in nature. Evidently, the sentence imposed is fleabite considering the nature of the injuries sustained. Hence, the sentence imposed by the lower appellate court below is set aside. The matter is remitted back to the Sessions Judge. The Sessions Judge is hereby directed to reconsider the matter with respect to the sentence imposed and impose appropriate sentence. The accused shall appear before the court below on 14/12/2007.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

Crl.R.P.No.1136 of 2000-C

~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~

O R D E R

24th October, 2007